

# Senate Study Bill 3148 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
VETERANS AFFAIRS BILL BY  
CHAIRPERSON COSTELLO)

## A BILL FOR

1 An Act relating to assistance animals, assistive animals, and  
2 service dogs and providing penalties for misrepresenting  
3 oneself as entitled to an assistance animal or an assistive  
4 animal in housing and for misrepresenting an animal as a  
5 service dog.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **216.8B Determination of disability**  
2 **and need for an assistance or assistive animal in housing.**

3     1. A licensee under chapter 148, 148C, 152, 154B, 154C,  
4 or 154D whose assistance is requested by a patient seeking  
5 a finding that an assistance animal or an assistive animal  
6 as defined in section 216C.11, subsection 1, is a reasonable  
7 accommodation in housing shall do either of the following:  
8     a. Make a written finding regarding whether the patient has  
9 a disability and, if a disability is found, a separate written  
10 finding regarding whether the need for an assistance animal or  
11 an assistive animal is related to the disability.

12     b. Make a written finding that insufficient information  
13 is available to make a finding regarding disability or the  
14 disability-related need for an assistance animal or an  
15 assistive animal.

16     2. A licensee under chapter 148, 148C, 152, 154B, 154C,  
17 or 154D shall not make a determination regarding subsection 1  
18 unless all of the following circumstances are present:

19     a. The licensee has met with the patient in person or by  
20 telemedicine.

21     b. The licensee is sufficiently familiar with the patient  
22 and the disability.

23     c. The licensee is legally and professionally qualified to  
24 make the determination.

25     Sec. 2. Section 216C.11, Code 2018, is amended to read as  
26 follows:

27     **216C.11 ~~Service dogs and assistive animals~~ Assistance**  
28 **animals, assistive animals, and service dogs.**

29     1. For purposes of this section, unless context otherwise  
30 requires:

31     a. "Assistance animal" means an animal that qualifies as a  
32 reasonable accommodation under the federal Fair Housing Act, 42  
33 U.S.C. §3601 et seq., as amended, or section 504 of the federal  
34 Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

35     b. "Assistive animal" means a simian or other animal

1 specially trained or in the process of being trained to assist  
2 a person with a disability.

3 c. ~~"service~~ "Service dog" means a dog specially trained  
4 to assist a person with a disability, whether described as a  
5 service dog, a support dog, an independence dog, or otherwise.  
6 ~~"Assistive animal" means a simian or other animal specially~~  
7 ~~trained or in the process of being trained to assist a person~~  
8 ~~with a disability.~~

9 2. a. A person with a disability, a person assisting a  
10 person with a disability by controlling a service dog or an  
11 assistive animal, or a person training a service dog or an  
12 assistive animal has the right to be accompanied by a service  
13 dog or an assistive animal, under control, in any of the places  
14 listed in [sections 216C.3](#) and [216C.4](#) without being required  
15 to make additional payment for the service dog or assistive  
16 animal.

17 b. A landlord shall waive lease restrictions on the keeping  
18 of animals for the assistance animal, service dog, or assistive  
19 animal of a person with a disability.

20 c. The person is liable for damage done to any premises  
21 or facility by an assistance animal, a service dog, or an  
22 assistive animal.

23 3. A person who knowingly denies or interferes with the  
24 right of a person under this section is, upon conviction,  
25 guilty of a simple misdemeanor.

26 4. a. For purposes of this subsection, "disability"  
27 means the same as set forth in the federal Americans with  
28 Disabilities Act of 1990, 42 U.S.C. §12101 et seq., and its  
29 related amendments and implementing regulations and includes a  
30 handicap as that term is defined in the federal Fair Housing  
31 Act, 42 U.S.C. §3601 et seq., as amended.

32 b. A person who intentionally misrepresents oneself as  
33 entitled to an assistance animal or an assistive animal as a  
34 reasonable accommodation in housing is, upon conviction, guilty  
35 of a simple misdemeanor.

1     c. A person commits the offense of intentional  
2 misrepresentation of entitlement to an assistance animal or an  
3 assistive animal as a reasonable accommodation in housing, if  
4 all of the following elements are established:

5       (1) The person intentionally misrepresents the person's  
6 entitlement to an animal in one's possession as an assistance  
7 animal or an assistive animal for the purpose of obtaining any  
8 of the rights or privileges set forth in state or federal law  
9 for a person with a disability as a reasonable accommodation  
10 in housing.

11       (2) The person was previously given a written or verbal  
12 warning regarding the fact that it is illegal to intentionally  
13 misrepresent an entitlement to an assistance animal or an  
14 assistive animal.

15       (3) The person knows that at least one of the following is  
16 true:

17       (a) The animal is not an assistance animal or an assistive  
18 animal with regard to the person.

19       (b) The person does not have a disability.

20     d. A written finding made by a licensee pursuant to section  
21 216.8B is an affirmative defense to the offense established by  
22 this subsection. However, the lack of such a finding is not  
23 proof of an offense established by this subsection, and nothing  
24 in this subsection or in section 216.8B limits the means by  
25 which a person with a disability may demonstrate, pursuant  
26 to state or federal law, that the person has a disability or  
27 that the person has a disability-related need for an assistive  
28 animal.

29     5. a. For purposes of this subsection, "disability"  
30 means the same as set forth in the federal Americans with  
31 Disabilities Act of 1990, 42 U.S.C. §12101 et seq., and its  
32 related amendments and implementing regulations.

33     b. A person who intentionally misrepresents an animal as a  
34 service dog or a service-dog-in-training is, upon conviction,  
35 guilty of a simple misdemeanor.

1 c. A person commits the offense of intentional  
2 misrepresentation of an animal as a service dog or a  
3 service-dog-in-training, if all of the following elements are  
4 established:

5     (1) The person intentionally misrepresents an  
6 animal in one's possession as one's service dog or a  
7 service-dog-in-training, or a person with a disability's  
8 service dog whom the person is assisting by controlling, or a  
9 service-dog-in-training for the purpose of obtaining any of the  
10 rights or privileges set forth in state or federal law.

11       (2) The person was previously given a written or verbal  
12 warning regarding the fact that it is illegal to intentionally  
13 misrepresent an animal as a service dog.

14     (3) The person knows that the animal in question is not a  
15 service dog or a service-dog-in-training.

16 EXPLANATION

17           The inclusion of this explanation does not constitute agreement with  
18           the explanation's substance by the members of the general assembly.

19       This bill relates to assistance animals, assistive animals,  
20 and service dogs and provides penalties for misrepresenting  
21 oneself as entitled to an assistance animal or an assistive  
22 animal in housing and for misrepresenting an animal as a  
23 service dog.

24 The bill creates new Code section 216.8B, titled  
25 "Determination of disability and need for an assistance or  
26 assistive animal in housing". The bill provides a process  
27 for when a patient requests the assistance of a professional  
28 licensed under certain chapters of the Code in finding that  
29 the individual is a person with a disability who needs an  
30 assistance animal or an assistive animal as a reasonable  
31 accommodation in housing. The bill provides that the licensee  
32 shall not make a determination unless the licensee has met  
33 with the patient in person or by telemedicine; the licensee  
34 is sufficiently familiar with the patient and the disability;  
35 and the licensee is legally and professionally qualified to

1 make the finding. The bill provides the licensee shall either  
2 make a written finding regarding whether the patient has a  
3 disability and, if a disability is found, a separate written  
4 finding regarding whether the need for the animal is related  
5 to that disability or make a written finding that there is  
6 insufficient information available to make a finding regarding  
7 disability or the disability-related need for the assistance  
8 animal or the assistive animal.

9 The bill adds a definition of "assistance animal" to Code  
10 section 216C.11. "Assistance animal" means an animal that  
11 qualifies as a reasonable accommodation under the federal Fair  
12 Housing Act, 42 U.S.C. §3601 et seq., as amended, or section  
13 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794,  
14 as amended. The bill provides that a landlord shall waive  
15 lease restrictions on the keeping of animals for not only the  
16 service dog or assistive animal of a person with a disability,  
17 but also the assistance animal of a person with a disability.

18 The bill provides that a person is liable for not only the  
19 damage done to any premises or facility by a service dog or an  
20 assistive animal, but also by an assistance animal.

21 The bill criminalizes the intentional misrepresentation of  
22 oneself as entitled to an assistance animal or an assistive  
23 animal as a reasonable accommodation in housing. A person  
24 commits this public offense if all of the following elements  
25 are established: the person intentionally misrepresents  
26 entitlement to an animal in one's possession as an assistance  
27 animal or an assistive animal for the purpose of obtaining any  
28 of the rights or privileges set forth in state or federal law  
29 for a person with a disability as a reasonable accommodation in  
30 housing; the person was previously given a written or verbal  
31 warning regarding the fact that it is illegal to intentionally  
32 misrepresent an entitlement to an assistance animal or an  
33 assistive animal; and the person knows that the animal is not  
34 an assistance animal or an assistive animal with regard to  
35 that person or the person does not have a disability. The

1 bill provides that a written finding made pursuant to new  
2 Code section 216.8B is an affirmative defense to the public  
3 offense established by the bill. The lack of such a finding  
4 is not proof of the public offense established by the bill,  
5 and nothing in the bill or in new Code section 216.8B limits  
6 the means by which a person with a disability may demonstrate,  
7 pursuant to state or federal law, that the person has a  
8 disability or that the person has a disability-related need for  
9 an assistance animal or an assistive animal.

10 The bill also criminalizes the intentional misrepresentation  
11 of an animal as a service dog or service-dog-in-training. A  
12 person commits this public offense if all of the following  
13 elements are established: the person intentionally  
14 misrepresents an animal in one's possession as one's  
15 service dog, or a person with a disability's service  
16 dog whom the person is assisting by controlling, or a  
17 service-dog-in-training for the purpose of obtaining any  
18 of the rights or privileges set forth in state or federal  
19 law; the person was previously given a written or verbal  
20 warning regarding the fact that it is illegal to intentionally  
21 misrepresent an animal as a service dog; and the person  
22 knows that the animal in question is not a service dog or a  
23 service-dog-in-training.

24 Both new public offenses are established as simple  
25 misdemeanors. A simple misdemeanor is punishable by  
26 confinement for no more than 30 days or a fine of at least \$65  
27 but not more than \$625 or by both.